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Attorney for Plaintiff Arunee Ryles

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ARUNEE RYLES,

Plaintiff,

v.

PALACE HOTEL; STARWOOD
HOTELS AND RESORTS; ITT
SHERATON,

Defendants.

Case No. C 04-05326 SBA

E-FILING

**STIPULATION AND [PROPOSED] ORDER
REGARDING CONTINUANCE OF PRE-
TRIAL DATES**

IT IS HEREBY STIPULATED AND AGREED by and between defendant Starwood
Hotels & Resorts Worldwide, Inc. ("Defendant"), and plaintiff Arunee Ryles ("Plaintiff"),
through their counsel of record, that certain pre-trial dates shall be continued as set forth below.
Good cause exists for this Stipulation and Order for the following reasons: (1) the hearing date
on Defendant's motion for summary judgment is set for March 6, 2007, the same date that the
parties' pretrial filings are due under the current Order for Pretrial Preparation; (2) the parties

would like to avoid the time and expense of preparing these numerous submissions prior to the Court's ruling on Defendant's motion for summary judgment; and (3) judicial efficiency would likewise be served if these pretrial submissions are postponed until after the Court's summary judgment ruling.

Pursuant to this Stipulation, the pre-trial dates set forth in the Court's October 27, 2006 Order for Pretrial Preparation shall be amended with the new italicized dates listed below.

Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure ("FRCP"), IT IS HEREBY ORDERED AS FOLLOWS:

F. Pre-Trial Preparation Due 3/13/07

1. Not less than *thirty (30) calendar days* prior to the pretrial conference, Counsel shall meet and confer in good faith in advance of complying with the following pretrial requirements in order to clarify and narrow the issues for trial, arrive at stipulations of facts, simplify and shorten the presentation of proof at trial, and explore possible settlement. In addition, Counsel shall meet and confer regarding anticipated motions in limine, objections to evidence, jury instructions, and any other matter which may require resolution by the Court.

2. The following matters shall be accomplished no later than *fourteen (14) calendar days* prior to the pretrial conference:

a. Joint Pretrial Statement

Counsel are required to file a pretrial conference statement containing the following information:

(1) The Action

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents, or other evidentiary material to be presented concerning the amount of those damages.

(2) The Factual Basis of the Action

(A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(B) **Disputed Factual Issues.** A plain and concise statement of all disputed factual issues which remain to be decided.

(C) **Agreed Statement.** A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(D) **Stipulations.** A statement of stipulations requested or proposed for pretrial or trial purposes.

(3) **DISPUTED LEGAL ISSUES**

(A) **Points of Law.** Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and decisions. Unless otherwise ordered, parties should cite to briefs served and lodged setting forth briefly the nature of each party's contentions concerning each disputed point of law, including procedural and evidentiary issues.

(B) **Proposed Conclusions of law.** If the case is to be tried without jury, unless otherwise ordered, parties should briefly indicate objections to proposed conclusions of law lodged with this Court.

b. **Trial Briefs**

Each party shall serve and file a trial brief which shall briefly state their contentions, the relevant facts to be proven at trial, and the law on the issues material to the decision.

c. **Finding of Fact**

In non-jury cases, each party shall serve and lodge with the Court proposed findings of fact and conclusions of law on all material issues. Findings shall be brief, clear, written in plain English and free of pejorative language, and argument.

d. **Witnesses**

Each party shall serve and file with the Court a list of all persons who may be called as witnesses. The list shall include a summary of the substance of each witness' proposed testimony. (Civil L.R. 16-15(4)(A))

e. **Designation of Discovery Excerpts**

Each party expecting to use discovery excerpts as part of its case in chief shall serve and lodge with the Court a statement identifying (1) by witness and page and line, all deposition testimony and (2) by lodged excerpt, all interrogatory answers and request for admissions to be used as part of its direct case. Each interrogatory answer intended to be offered as an exhibit shall be copied separately and marked as an exhibit. The original of any deposition to be used at trial must be produced at the time of trial, as well as a copy for the Court. Counsel

1 shall indicate any objections to the use of these materials and advise the Court that counsel has
2 conferred respecting such objections.

3 f. **Jury Instructions**

4 The parties shall file a joint set of proposed jury instructions as to
5 those instructions on which the parties have reached agreement. As to any disputed instructions,
6 each party shall separately submit its “proposed” instruction(s) supported by a memorandum
7 setting forth the authority for its use. Responses or objections to any “proposed” jury instruction
8 shall be filed no later than the date of the pretrial conference. All instructions shall be written in
9 plain English which is comprehensible to jurors, concise and free of argument, and shall be
10 organized in a logical fashion so as to aid jury comprehension and are also to be provided on a
11 3.5” computer disk. The Court’s practice is to utilize, whenever possible, instructions found in
12 the Ninth Circuit Manual of Model Jury Instructions.

13 g. **Jury Voir Dire and Verdict Forms**

14 Each party shall submit proposed questions for jury voir dire and a
15 proposed form of verdict.

16 h. **Exhibits**

17 Each party shall provide every other party one set of all exhibits,
18 charts, schedules, summaries and diagrams and other similar documentary materials to be used a
19 the trial together with a complete list of all such exhibits. The Court requires one original version
20 of exhibits (as described above) for the Clerk and two copies (one for the Bench and one for the
21 witness stand). All such versions of the exhibits, including the originals, should be indexed into a
22 binder for easy and quick reference by all parties. The first page of each binder should have a
23 copy of the exhibit list (see attached) appropriately completed with each exhibit description and
24 its designated number. Plaintiffs shall refer to their exhibits numerically and Defendants shall
25 label theirs alphabetically. Exhibit labels are also attached for your convenience. Exhibits should
26 be brought to Court on the first day of trial.

27 3. The following matters shall be accomplished no later than *eleven (11)*
28 *calendar days* prior to the pretrial conference: **Motions in Limine and Objections to Evidence**
due: 3/16/07. Each party anticipating making motion(s) in Limine and/or objection(s) to any
testimony or exhibits expected to be offered shall file and serve a statement briefly identifying
each item objected to and the grounds for the objection.

4. Responses to motions in Limine or objections to evidence shall be filed and
served no less than *seven (7) calendar days* prior to the pretrial conference due: **3/20/07..**

1 Dated: February __, 2007

FOLGER LEVIN & KAHN LLP

2 /s/ Lisa M. van Krieken

3 Lisa M. van Krieken
4 Attorneys for Defendant
Starwood Hotels & Resorts Worldwide, Inc.

5 Dated: February __, 2007

The Revelation Law Firm

6 /s/ Melanie Popper

7 (approved on this date)

8 Melanie Popper
9 Attorney for Plaintiff Arunee Ryles

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12 **IT IS SO ORDERED.**

13 Dated: February 9, 2007

14 
15 SAUNDRA BROWN ARMSTRONG
16 United States District Court Judge

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